

E-Filed 12/13/2010

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAUREN RIES and SERENA ALGOZER,
individuals on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

HORNELL BREWING COMPANY, INC.,
BEVERAGE MARKETING USA, INC.,
ARIZONA CORP., INC., PALM BEACH
BREWING CO., LLC, FEROLITO VULTAGGIO
& SONS, INC.,

Defendants.

Case No. 5:10-cv-01139-JF (PVT)

ORDER¹ LIFTING STAY AND
DENYING MOTION TO CONTINUE
CASE MANAGEMENT
CONFERENCE

[Document No. 55]

Plaintiffs Lauren Ries and Serena Algozer (collectively, "Plaintiffs") allege that Defendants Hornell Brewing Company, Inc.; Beverage Marketing USA, Inc.; Arizona Corp., Inc.; Palm Beach Brewing Co., LLC; and Ferolito Vultaggio & Sons, Inc. (collectively, "Defendants") have violated state consumer-protection laws in connection with labeling and advertising that, among other things, identifies high fructose corn syrup ("HFCS") and citric acid as "natural" ingredients. On July 23, 2010, the Court stayed the instant action for six months

¹ This disposition is not designated for publication in the official reports.

1 pursuant to the primary jurisdiction doctrine, referring to the United States Food and Drug
2 Administration (the "FDA") the question of whether HFCS and citric acid are "natural"
3 ingredients. On December 7, 2010, Plaintiffs advised the Court that the FDA has declined to
4 address the issue.

5 Accordingly, Plaintiffs seek to lift the stay, and Defendants do not oppose that request.
6 However, Plaintiffs also seek to continue a case management conference ("CMC") scheduled for
7 December 17, 2010 so that the parties may proceed with an early neutral evaluation session to
8 which they agreed before the stay was entered. Defendants contend that the two matters are
9 unrelated and that the CMC is necessary to address scheduling issues, including a briefing
10 schedule for Defendants' renewed motion to dismiss. The Court agrees that the current CMC
11 date is appropriate and should not affect the early neutral evaluation process.

12 Good cause therefor appearing, the stay is lifted and the request to continue the CMC is
13 denied.

14 IT IS SO ORDERED.

15
16 DATED: 12/13/2010


JEREMY FOGEL
United States District Judge